

MINUTES OF THE REGULAR MEETING OF THE TRINIDAD CITY COUNCIL
WEDNESDAY, JANUARY 14, 2009

I. CALL TO ORDER/ROLL CALL

- Mayor Binnie called the meeting to order at 7:00PM. All Council members were in attendance: Bhardwaj, Ratzlaff, Morgan, Binnie, Fulkerson.
- City Staff in attendance: City Manager Steve Albright, Assistant City Clerk Robin Fraser, and Police Chief Ken Thrailkill.

II. PLEDGE OF ALLEGIANCE

III. ADJOURNMENT TO CLOSED SESSION

1. Personnel Issue: Section 54957(b), City Manager
Vote to approve contract for another year. 5-0 approved.
Contract will be publicly available in city clerk's office. CC will hold closed session soon for an evaluation of the CM.
2. Real Property Negotiations: Section 54956.8, Lease/Sale of City Property. *No action or decision.*

IV. APPROVAL OF AGENDA

Binnie suggested moving Consent Agenda Items 1 and 4 to Discussion/Action Items, and postponing Discussion/Action Items 4 and 5 to the next regular City Council meeting.
Motion (Fulkerson/Ratzlaff) to approve the agenda as amended. Passed unanimously.

V. APPROVAL OF MINUTES

December 10, 2008

Motion (Bhardwaj/Fulkerson) to approve the minutes. Passed unanimously.

VI. COUNCILMEMBER REPORTS

Bhardwaj – Health & Human Services, Planning

Planning: Nothing to report.

Sales Tax Advisory Committee: Gathering information to present next month.

Ratzlaff - Nothing to report

Binnie - Parks and Recreation, Streets

Commented on opportunities for citizen participation and input.

Fulkerson

Redwood Coast Energy Authority: Update on December RCEA meeting.

Morgan - Nothing to report

VII. STAFF REPORTS

City Manager - Albright: Nothing to report

City Attorney – Hagan: Nothing to report

Chief of Police – Thrailkill: Nothing to report

VIII. ITEMS FROM THE FLOOR

(Three (3) minute limit per Speaker unless Council approves request for extended time.)

Glen Saunders –

Interested in reforming a financial committee to keep the community informed of the City's financial status.

Steve Ruth –

Would like to see the Citizen recognition award reinstituted.

Chi-Wei Lin –

Introduced the scope and intent of the new group Greener Trinidad.

IX. CONSENT AGENDA

2. Financial Status Reports for October and November, 2008
3. Resolution 2009-01 Accepting an Easement from the North Coast Land Trust
5. Resolution 2009-03 Authorizing the Destruction of Archived City Records
6. Progress Report on Amending the FY2009 Budget

Motion (Bhardwaj/Fulkerson) to approve Consent Agenda items 2,3,5, and 6 as submitted. Passed unanimously.

X. AGENDA ITEMS

1. Appointments to the Trinidad Planning Commission

Mayor Binnie presented background and recommendations for Planning Commissioner appointments.

Council comments included:

Bhardwaj: Presented her notes from the packet and favored Lin for his detailed mind, Pennisi for his experience, and Fraser as a new member from an underrepresented population in town.

Morgan: Expressed concern about a comment made by Bartlett regarding her service being contingent upon Lin's service, and supported appointing Lin, Pennisi, and Fraser.

Ratzlaff: Supported appointing Fraser.

Council and staff discussed the decision-making process including benefits and concerns over ex-parte communications

Public comment included:

Pat Morales – Edwards Street
Asked about term limits and resignation possibilities.

Brad Twoomey- Himalaya Drive
Inquired about public vs. private Council communication.

Chi-Wei Lin- Pacific Street
Clarified his communication with Bartlett and commented on the good opportunity of serving on the Planning Commission to contribute to the quality of life and future of the City.

The Council appointed Pennisi and Fraser to four-year terms, and Lin to a two-year term of service on the Planning Commission.

2. Selection of Council Member Representatives to Boards and Committee

Council and staff discussed appointment interest to local committees, and Brown Act guidelines for meeting attendance related to Collective Concurrence, conflict of interest, and votes by Rule of Necessity.

Motion (Fulkerson/Morgan) to make the following appointments to local committees/organizations:

- **Binnie** to the Tsurai Management Plan Implementation Committee with **Morgan** as alternate;
- **Binnie** to the Gateway Project;
- **Fulkerson** to the BLM Coastal National Monument Gateway Project;
- **Bhardwaj** to the Joint Committee for the Par/Museum/Library with **Ratzlaff** as alternate;
- **Bhardwaj** as the Planning Commission Liaison; and
- **Bhardwaj** to the Citizens' Oversight Committee for the Sales and Use Tax.
- **Lin** to the ASBS Project Coordinator; **Passed unanimously.**

Council and staff discussed appointment interest to county committees, and conformity differences between organizations under Brown Act guidelines.

Motion (Fulkerson/Morgan) to make the following appointments as regional board representatives:

- **Binnie** to the Humboldt Area Council of Governments with Morgan as alternate;
- **Binnie** to the Humboldt Mayors Committee;
- **Fulkerson** to the Humboldt Transit Authority;
- **Morgan** to the Humboldt County Convention and Visitors Bureau;
- **Morgan** to the Humboldt County Hazard Mitigation Committee;
- **Ratzlaff** to the Redwood Coast Energy Authority Board;
- **Fulkerson** to the Redwood Regional Economic Development Commission; and
- **Binnie** to the Indian Gaming Funds Committee with Morgan as alternate. **Passed unanimously.**

3. Council Policy on Communications among Council Members/Staff

City Manager Albright presented background. City Attorney Hagan spoke about the Brown Act as a historical guideline. Policies limiting communication may create first amendment issues. Council should be careful of forming policies that limit the Council's ability to function.

Council comments included:

Motion (Morgan) to direct staff to assess the current council policy, solicit improvements, and make recommendations for the Council to discuss at the next regular meeting.

Morgan: Stated that the Council has tradition, not policy to guide Council communication other than the Brown Act, and he would like a more concrete policy to clarify expectations and guide communication without hindering the ability to function. He finds the email communication between Councilmembers questionable, suspicious, and not good for building trust.

Fulkerson: Supported the Brown Act as a good guide. Prefers staff time and funding being spent on projects rather than policy formation or monitoring of blogs. Feels the blog publication was inappropriate, and finds email communication helpful.

Bhardwaj: Defended the emails published on Morgan's blog as not forming consensus or collusion. Some of the information published was a rough draft of a letter never sent. Councilmembers have a responsibility to serve all members of the community. She mentioned that in the past Council disagreements have been about issues. Committed not to use email to communicate with other Councilmember in the future, but was unsure how to rebuild trust with community members.

Binnie and **Ratzlaff** agreed with Fulkerson's initial comment about the Brown Act's sufficiency in guiding communication policy.

Public comment included:

Pat Morales expressed disappointment upon reading Morgan's blog, saying he'd violated the other Councilmember's trust. He made it sound like they may have violated the Brown Act, and brought up the issue of attorney client privilege related to the City Manager's communications with the City Attorney.

Tom Odom also expressed disappointment. He said he didn't think anyone had done anything wrong, but that the emails should stop.

Chi-Wei Lin equated the accusation of non-transparency with accusation of a Brown Act violation because it is the guiding document. Evidence of collaboration is required in cases of violation. Council should be aware of the spirit as well as the letter of the law.

Steve Ruth encouraged communication as leading to more understanding, less confusion and hurt feelings. Suggested Morgan present something more specific.

Patti Fleschner commended the Council for its service and cautioned against accusations of malintent.

Kim Tays inquired about permission and notification for posting the emails. Bhardwaj responded that permission had not been requested, but notification had been given. Tays thought the blog's warned the public not to trust the Council.

Brad Twoomey clarified that the emails had been private communications, not sent to the blog.

Richard Johnson suggested finding an exit strategy, possibly with outside expertise. He did not support using staff time for policy development. He expressed concern about the ability of the Council to work effectively and efficiently in the coming months.

Fulkerson appreciates technology for efficiency in communication, and sees email as similar to conversations at Murphy's Market – not malintended or a Brown Act violation. Mentioned that the emails were not about collusion or an agenda item, but a community issue. Noted that the issue was important, making the meeting awkward and uncomfortable, but not dysfunctional.

Morgan is erring on the side of extreme caution. He suggested that Councilmembers consult with the City manager instead of each other.

Extended Council comments included:

Fulkerson disagreed with the statement from page 46 of the packet that the mayor should be "apolitical and unbiased." The mayor has a right to strong opinions as long as he assures that all Councilmember's opinions are allowed. Motions should be generated from Council discussion rather than drafted ahead of time. Albright clarified that the Mayor should be unbiased in his role as presiding officer for generating information. Fulkerson objected to Morgan's implication that the three Councilmembers included in the email discussion were involved in something dirty, as implied by Morgan's use of the term "mud." Ratzlaff was excepted because he does not use his computer. Morgan stated that he was willing to sacrifice the trust of the three Councilmembers for the trust of the public. Fulkerson disagreed that it was a black and white issue.

Binnie noted that while the intent of the blog entry might not have been accusatory, the tone and wording were. Wrong doing was insinuated. He would have preferred for Morgan to address the issue with the Councilmembers personally, rather than on the blog.

Hagan suggested that the motion needed a second. Binnie requested a restatement.

Morgan withdrew the motion.

4. Discussion on Regulations for 215 Dispensaries in Trinidad

City Manager Albright presented background. Thrailkill explained that Arcata's ordinance was not included in the packed because it was based on land use issues.

City Attorney Hagan clarified the terminology of dispensaries, collectives, and cooperatives. He stated that Fortuna prohibited collectives, period. Arcata allowed existing cooperatives under the land use ordinance. They are allowed in the State. A collective or cooperative may bring marijuana grown elsewhere to be sold on premises here. Individual grows and sales are a separate topic.

Council and Staff comments included:

Fulkerson expressed concern about access to medical marijuana, and questioned the expectation that one community serves the needs of multiple communities.

Thrailkill stated that the State Attorney General's office clarified that a caregiver has to provide for all of the medical needs of an individual, and cannot only provide medication. Restriction of individual use and growth under Prop 215 is not sought. Interest has been expressed in setting up a cooperative, and an ordinance could be put in place as a preventative measure.

Public comment included:

Bill Harkins supports the Fortuna example, as medical marijuana is available.

Tom Odom agreed with Harkins.

Glen Saunders agreed with Harkins and Odom

Patti Fleschner hoped for clarity to help landlords' ability to restrict use of rentals.

Hagan noted that landlord regulation of property is a separate issue from City regulation of grows.

Motion (Ratzlaff/Morgan) to develop an ordinance prohibiting the sale and growth of marijuana within the City of Trinidad. Second withdrawn.

Amendment (Bhardwa/Ratzlaff) to instruct staff to draft an ordinance which prohibits collectives and cooperatives in Trinidad.

Amendment (Fulkerson/Morgan) to add a "whereas" in support of medical marijuana use.

Passed unanimously.

1. Staff Activities Report through December, 2008

Albright presented background and details regarding the income and expenditures in the City budget as included in the packet.

Council comment included:

Morgan would have liked to see more detail in the closed session announcement for clarity. He asked about the background for the tiered water rate proposal.

Public comment included:

Lin asked if the budget freeze applied to the grant related to the library project. Albright explained which related funds had been spent, could be spend, and which were frozen.

4. Resolution 2009-02 Amending the City of Trinidad Personnel Rules and Procedures.

Albright presented background. Stated that staff had had the opportunity to review it, and feedback had been included.

Council thanked Albright for his work.

Motion (Fulkerson/ Morgan) to approve the resolution. Passed unanimously.

XI. COUNCIL REQUEST FOR FUTURE AGENDA ITEMS

The two items regarding the water system were postponed. Binnie suggested a discussion on a water rate change as proposed by the previous water commissioner. Fulkerson requested these items be at the beginning of the agenda due to the postponement.

Hagan noted that a motion to adjourn ranks above all others, and is always in order.

XIII. ADJOURNMENT

Motion (Morgan/Fulkerson) to adjourn.

- **Meeting ended at 10:45pm.**

Submitted by:

Approved by:

Robin Fraser
Assistant to the City Clerk

Stan Binnie
Mayor

DRAFT